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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REALNETWORKS, INC., a Washington corporation, Plaintiff, v. MLB ADVANCED MEDIA, L.P., a Delaware limited partnership, Defendant.	Case No. CV04-0511 FDB COMPLAINT **DEMAND FOR JURY TRIAL**

Plaintiff RealNetworks, Inc., ("RealNetworks"), through its undersigned attorneys, hereby alleges as follows:

1. JURISDICTION AND VENUE

1. This is an action for breach of contract.

2. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1332 as the parties are citizens of different states and as the matter in controversy exceeds the sum or value of $75,000, exclusive of interests and costs.

3. RealNetworks' claims arise in whole or in part in this District, and the Defendant transacts business within this District. Accordingly, venue is proper under 28 U.S.C. § 1391(a) and (c).

04-CV-00511-CMP

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II. THE PARTIES

4. RealNetworks is a pioneer in the creation, delivery, playback, and security of digital media content over networks. RealNetworks is organized under the laws of the State of Washington. Its headquarters is in Seattle, Washington.

5. Defendant MLB Advanced Media, L.P. ("MLBAM") is the interactive media and Internet company of Major League Baseball, organized as a limited partnership under the laws of the State of Delaware. MLBAM intentionally does business in Washington State and in the Western District of Washington, including, without limitation, by (a) offering, selling and delivering audio and video digital media services over the Internet to residents of the State of Washington on behalf of Major League Baseball and on behalf of the Seattle Mariners Major League Baseball Club, and (b) by forming contracts in the State of Washington. MLBAM has sold digital media subscription products and services to a large number of Washington residents. The Contract which is the subject of this action was negotiated and agreed to in the Western District of Washington, and RealNetworks performed its obligations under the Contract in the Western District of Washington.

III. STATEMENT OF FACTS

RealNetworks Digital Media Business

6. RealNetworks is a public company based in Seattle, Washington that has become a recognized leader in delivery of digital media on the Internet. RealNetworks develops and markets software products and services designed to enable users of personal computers ("PCs") and other consumer electronic devices to send and receive audio, video and other multimedia services over the Internet. RealNetworks' services include online content subscription services distributed directly by RealNetworks, as well as so-called "back-end" services (including encoding and online hosting) for third party subscription services.

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7. RealNetworks' software technology allows PC users to "download" or "stream" digital media. "Downloading" is when a PC user first retrieves a copy of the digital file to his PC, and then watches or listens to it. "Streaming" allows a PC user to watch or listen to the digital content as it is being delivered to his/her PC without having first to download the entire file. Streaming is similar to a radio or television broadcast.

8. Various file formats have been developed for creating, compressing and delivering digital media files over the Internet. Streaming media content is generally compressed for faster transmission and then decompressed for playback.

9. The two leading architectures in use for streaming video and audio on the Internet are RealNetworks' RealMedia and Microsoft's Windows Media. Each architecture is associated with proprietary digital file formats (although RealNetworks' latest system, Helix, is a universal product that also supports industry standard formats such as MPEG).

10. A streaming media system for the delivery of digital media over the Internet consists of three steps or software applications: (1) creation of the content using a specific digital media format; (2) delivery of the digital media content; and (3) playback. These software applications must support a media file's digital format (e.g., RealMedia or Windows Media), in order to be fully compatible.

11. Once the media file is created, it is transmitted from a media server over the Internet. In order to stream a file in a given digital format, the server must include support for delivery of that format. For example, only the RealNetworks media server, known as the Helix Universal Server, can deliver RealMedia formats. Windows servers cannot. The software application that streams the encoded files from the Internet to users is called a streaming media server.

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12. PC users view and/or listen to the streaming file using a streaming media player. RealNetworks' player is known as the "RealOne Player" or "RealPlayer" (collectively the "RealPlayer"). RealPlayer is capable of playing digital media content encoded in the RealMedia formats. Microsoft's Windows Media Player cannot play content encoded in the RealMedia formats.

13. Every element in the streaming media system – encoders, servers, and players – must support the applicable digital format to enable the creation, delivery and playback of content in that format. Each part of the streaming media system is dependent upon and reinforced by each of the others.

14. Strategies intended to increase distribution of the RealNetworks' digital media technology, including distribution and usage of the RealPlayer, distribution of RealNetworks' Helix Universal Servers, and the availability and promotion of online audio and video content in RealNetworks' proprietary formats, have been crucial to the growth of the Company. More content available, and promoted, in RealNetworks' formats results in more PC users choosing to download a free RealPlayer, or a premium RealPlayer for which the PC user pays a fee. More RealPlayers downloaded and used by consumers results in greater demand for content available in the RealMedia formats, and greater demand for licenses to RealNetworks' server software and back-end services. In addition, each time a PC user chooses to download and use the RealPlayer, or to update to the latest version of the RealPlayer, they visit RealNetworks' website, thus providing a greater number of opportunities to offer those PC users RealNetworks' premium digital media products and services.

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MLB Advanced Media ("MLBAM")

15. MLBAM is the interactive media and Internet company of Major League Baseball, established in June 2000 by the 30 Major League Baseball Club owners to centralize all of Baseball's Internet operations. MLBAM manages www.MLB.com, Major League Baseball's official web site; and each of the 30 individual Major League Baseball Club's web sites, including the Seattle Mariner's web site. MLB.com offers baseball fans the most complete baseball information on the Internet, including up-to-date statistics, game summaries, extensive historical information, exclusive features about Major League Baseball events and programs, on-line ticket sales, baseball merchandise, authenticated memorabilia and collectibles, fantasy games, radio and video broadcasts of Major League Baseball games, and video highlights. MLBAM provides these products and services in the United States and internationally, including foreign language versions.

RealNetworks' First Agreement with MLBAM

16. On or about March 28, 2001, RealNetworks and MLBAM entered into the three-year Streaming Media Services Agreement (the "First Agreement") that made RealNetworks the exclusive platform worldwide for a broad range of MLBAM's online services, including live audio and video webcasts of all available MLB games.

17. During the term of the First Agreement (the 2001-2003 MLB baseball seasons), all content offered on MLB.com was offered exclusively in the RealMedia formats. All PC users who accessed MLB.com, including users who subscribed to MLB Gameday Audio ("MLB GDA") and/or MLB.TV, received that audio and video content exclusively in the RealMedia formats; and all subscribers listened to and/or watched MLB games exclusively in the RealPlayer.

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18. PC users who used the RealPlayer to listen to and/or watch MLB games also were given the opportunity to experience and purchase other RealNetworks' digital media services and products, including premium RealPlayer products, subscription music services, music downloads, games, premium radio products and subscription services that included other sporting events.

19. The term of the First Agreement, including amendments thereto, ended February 7, 2004.

The 2004-05 MLBAM Contract

20. On February 8, 2004, RealNetworks and MLBAM agreed to a new contract (the "2004-05 MLBAM Contract"), the terms of which are set forth in an exchange of emails, true copies of which are attached as Exhibit A.

21. RealNetworks has met its obligations under the 2004/05 MLBAM Contract.

MLBAM's Breach of the 2004-05 MLBAM Contract

22. MLBAM first breached the 2004-05 MLBAM Contract by failing to work with RealNetworks in good faith to issue a press release jointly announcing the parties' new arrangement in a reasonable timeframe.

23. Commencing on or about March 4, 2004 and continuing thereafter, MLBAM violated the 2004-05 MLBAM Contract by providing MLB GDA on the MLB.com website solely in the Windows Media format, and not in RealNetworks' format. The MLB.com web site requires a PC user to become a GDA subscriber before being able to access the 2004 MLB GDA live audio games.

24. Commencing on or about March 5, 2004 and continuing thereafter, MLBAM violated the 2004-05 MLBAM Contract by providing MLB.TV on the MLB.com website solely in the

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Windows Media format, and not in RealNetworks' format. The MLB.com web site requires a PC user to become a MLB.TV subscriber before being able to access the 2004 MLB.TV live video games. MLBAM has informed RealNetworks that it will not offer MLB.TV (live video games) in the RealNetworks format *at all* during the 2004 or 2005 MLB seasons.

25. As a result of MLB's breach of the 2004-05 MLBAM Contract, a PC user who subscribes to MLB GDA and/or MLB.TV to listen to and/or watch MLB games will automatically have those games played on their PC using the Windows' Media Player. But for MLBAM's breach of the 2004-05 MLBAM Contract, all PC users would have a neutral option to listen to and/or watch MLB games in RealNetworks' format on the RealPlayer, and many PC users would exercise that option.

Irreparable Harm Caused by MLBAM's Breach

26. MLBAM's breach of the 2004-05 MLBAM Contract has caused substantial and irreparable harm to RealNetworks, including, without limitation, (1) by reducing the amount of digital media content encoded in RealNetworks formats; (2) by reducing the distribution and use of RealNetworks' server software and the RealPlayer; (3) by depriving RealNetworks of the opportunity to expose PC users to the full variety of RealNetworks' digital media products and services; and (4) by damaging the value of RealNetworks' goodwill. RealNetworks has suffered, and will continue to suffer, intangible harm for which there is no adequate remedy at law, and damages which are difficult to quantify.

IV. COUNT ONE: BREACH OF CONTRACT

27. RealNetworks repeats and realleges every allegation of this Complaint and incorporates them herein by this reference.

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28. The aforesaid acts of Defendants constitute a breach by MLBAM of the 2004-05 MLBAM Contract.

29. MLBAM's breach of contract has caused and will continue to cause intangible harm to RealNetworks for which there is no adequate remedy at law, and damages which be difficult to quantify.

V. RELIEF SOUGHT

WHEREFORE, Plaintiff RealNetworks, Inc. respectfully prays the Court as follows:

1. Issue a temporary restraining order, and a preliminary and permanent injunction, (a) ordering Defendant to offer MLB GDA (live audio games) in the RealAudio format during the 2004 and 2005 MLB seasons, including all pre-season and post-season games that are made available over the Internet, in compliance with the terms of the 2004-05 MLBAM Contract; and (b) ordering Defendant to offer MLB.TV (live video games) in the RealVideo format during the 2004 and 2005 MLB seasons, including all pre-season and post-season games that are made available over the Internet, in compliance with the terms of the 2004-05 MLBAM Contract.

2. Award money damages to RealNetworks, Inc. in an amount to be proven at trial.

3. Order an award of reasonable attorneys' fees and costs to RealNetworks, Inc.

4. Grant such other and further relief as to the Court deems just and proper.

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VI. JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues in this case so triable.

DATED this 8th day of March, 2004.

Respectfully submitted,

SUMMIT LAW GROUP PLLC

By: ______________________________
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